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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,631	04/16/2001	Yoichiro Sako	6715/62360	2292

7590 05/21/2004
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New York, NY 10036

EXAMINER

HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,631

Applicant(s)

SAKO ET AL.

Examiner

NABIL Z HINDI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,12-19,22-24,26-37 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10,12-19,22,24,26,28-37 and 39-43 is/are rejected.
- 7) ☒ Claim(s) 23 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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In response to applicant's amendment dated May 12, 2004. The following action is taken:

The claims are rejected for the same reasons set forth in the previous office action mailed Feb. 20, 2004 repeated herein.

The newly added limitations (claim 10) "within a range accessible from an objective lens....where said second data is recorded" does not add any patentable weight to the claimed invention because the limitation read on any range within the disk surface that is accessible by the optical head (any random location on the disk surface).

The newly added limitation (claims 19, 24 and 29) "derived from a selected audio program...derived from the same selected audio program" read on reading the first data address or title of the user data) and then reading a second data music, composer...etc from the same audio data. Applicant's claimed invention is drawn to a multi-layered optical disk wherein the objective lens is focused jumping (refocusing) from one layer to another. Such interpretation is well established in the art as acknowledged by applicant's own prior art. The claims are further drawn to the "relevant" data between the first and second layers. Such limitation is interpreted as a correlation data (TOC information, continuation data or any other data that is related and correlated between the first and the second layers on the disk).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 12-19, 22, 24, 26, 28-37 and 39-41 are rejected under 35 U.S.C.

103(a) as being unpatentable over Takasu et al (5828648) in view of Kawamura et al (6424614).

The primary reference discloses the use of a multi-layer disk having a first and second recording layers 2 and 4. the reference further includes a single light beam for focusing and un-focusing on the first and second recording layers (column 6 lines 35-57). The control means, read means and the focusing means to read the first and second recording layers are inherently present since the reference is drawn to reading a multi layer disk. However the reference does not disclose the use of "relevant" data between the first and second layers. The secondary reference discloses the use of a recording relevant data relating the data on the first layer with the data on the second layer as shown in column 3 lines 47-64 for the purpose of time efficiency and easy accessing from one layer to another. Thus it would have been obvious to one skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the primary reference. Such modification of recording relevant data between two information layers is a logical engineering capability in order to relate data from one layer to another. One skilled in the art would have been motivated to use the teachings of the secondary reference for the purpose of time efficiency in accessing a continuous stream of data recorded on a multi layer disk.

With respect to the limitation of claim 26. See the primary reference (column 6) shifting from one layer to another.

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With respect to the limitations of claims 12-18. The limitations are drawn to the disk structure such as the stacking of the multi layers, the adhesive and the protection layers. See figs 1-4 corresponding to figs 1-3 of the claimed invention.

With respect to the limitations of claims 31-37 and 39-41. The limitations are drawn to the kind of data recorded on a disk (audio, video, lyrics...etc). It is well established in the art to record any kind of data on a disk based on the user preference.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasu et al in view of Kawamura et al as applied to claims 10, 12-19, 22-24, 26-37 and 39-41 above, and further in view of McPherson et al (6298025).

Takasu et al in view Kawamura et al disclose the invention as analyzed above. However the combined references do not disclose the use of a multi channel data on a disk. The reference McPherson et al discloses the use of a multi channel data on a disk for the purpose of Stereo enhanced audio recording as shown in column 1 lines 40-45. it would have been obvious to one skilled in the art at the time the invention was made to use the teachings of McPherson et al and modify the system of Takasu et al in view of Kawamura et al. such modification of using a multi channel data on a disk is well established in the art for the purpose of enhancing the audio recording quality.

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Claims 23, 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited prior art shows the use of a first and second memory and the use of a synthesizing means operating as claimed.

Applicant's arguments filed May 12, 2004 have been fully considered but they are not persuasive. In the remarks section, only claims 10, 12-19, 22-24, 26-37 and 39-43 remain in the application. Applicant's arguments drawn to a two layer optical disk in which the first layer has a left and right channel data and the second layer having other data is not supported nor claimed in the claimed invention. The argument drawn to without shifting the sled of the optical playback head is not supported nor claimed. The newly added limitations in the claim do had not been amended to emphasize the above argument. In response to applicant's argument drawn to the prior art of record. The claimed invention is not drawn to the use of a single optical head. The reference Takasue shows the use of a multi layer disk having multiple data layers in which the objective lens is shifted from one of the layers to the other in order to access the different layers on the disk.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

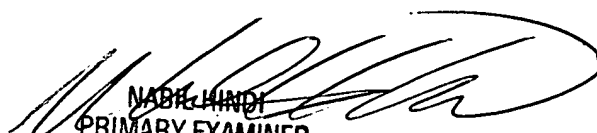
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NABIL Z HINDI whose telephone number is (703) 308-1555. The examiner can normally be reached on mon-fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached on 305-4827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


NABIL HINDI
PRIMARY EXAMINER
GROUP 2500
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